

REMARKS

Claims 9-12 and 19-23 are pending in the application.

Claims 9-12 and 19-23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ferguson et al. (U.S. Patent No. 6,798,777) in view of "Thread Prioritization: A Thread Scheduling Mechanism for Multiple-Context Parallel Processors" by Stuart Friske et al.

Applicants note that the present invention and Ferguson et al. were both owned by Juniper Networks, Inc. at the time Applicants' invention was made. Ferguson et al., therefore, cannot preclude patentability under 35 U.S.C. § 103 in light of the American Inventors Protection Act of 1999 (hereinafter AIPA), effective for all applications filed on or after November 29, 1999. Section 103(c) of 35 U.S.C. states: "Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The present invention was filed after the November 29, 1999 enactment date of the subject provision of the AIPA. The present application was filed before the issue date of Ferguson et al. Thus, Ferguson et al. would qualify as prior art with respect to the present application only under subsection (e) of 35 U.S.C. § 102. Since the present application and Ferguson et al. were both commonly assigned or subject to an obligation or assignment to Juniper Networks, Inc., Ferguson et al. cannot be used to preclude patentability of the present invention under 35 U.S.C. § 103.

Accordingly, without addressing the veracity of the Examiner's statements with respect to the rejection of claims 9-12 and 19-23, Applicants respectfully request withdrawal of the rejection of claims 9-12 and 19-23 under 35 U.S.C. § 103 based on the combination of Ferguson et al. and Friske et al.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request withdrawal of the outstanding rejection and the timely allowance of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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